S.B. CIVIL WRIT PETITION NO.754/2004

Smt. Shanta Bai Vs. Kailash & ors.

Date : 6.5.2005

HON'BLE MR. PRAKASH TATIA, J.

Mr. BR Mehta, for the petitioner.

Mr. SL Jain, for the respondents.

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Heard learned counsel for the parties.

The plaintiff/petitioner is aggrieved against the order dated 12.1.2001 by which the trial court decided the issue no.10 and held that the value of the subject matter of the property is Rs.5 lakhs and the trial court directed the plaintiff to pay the court fees accordingly.

According to learned counsel for the petitioner, the trial court committed illegality in not considering the DLC report and that report is a relevant piece of evidence for the purpose of assessing the market value of the property. The trial court passed the impugned order on the basis of direct evidence produced by the parties and admittedly, as admitted by learned counsel for the petitioner himself, the said DLC report was not even produced before the trial court, therefore, when the trial court has decided the issue on the basis of evidence available on the record, there arises no question for this Court to interfere in the impugned order.

Accordingly, this writ petition, having no merits, is hereby dismissed.

The petitioner, if has not paid the court fees till now, he may pay the same within a period of one month from today.

The stay order granted by this Court on 19.2.2004 is vacated and the stay petition is dismissed.

(PRAKASH TATIA), J.

S.Phophaliya